

REMARKS

Claim Rejections

Claims 1-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant's admitted prior art and Shinohara et al. (US-5,165,530).

Drawings

Applicant proposes to amend Figure 4 as illustrated in red on the attached photocopy. In Figure 4 it is proposed to add the labels --79-- and --80--. No "new matter" has been added to the original disclosure by the proposed amendments to this figure. It is believed that the foregoing proposed amendments obviate the outstanding objections to the drawings. Approval of the proposed drawing changes is respectfully requested.

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, except for the foregoing proposed changes, Applicant must assume that the drawings are acceptable as filed.

Amendments to Specification

Applicant has amended the specification as noted above to cure obvious grammatical and idiomatic inaccuracies, and to provide a new title to more clearly describe the claimed invention. It is believed that the foregoing amendments to the specification overcome the outstanding objections thereto. No "new matter" has been added to the original disclosure by the foregoing amendments to the specification.

Claim Amendments

By this Amendment, Applicant has amended claims 1 and 6 to obviate the objections set forth in the outstanding Office Action. It is believed that the amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The primary reference to Applicant's admitted prior art discloses a push button apparatus including a micro switch (5), an interface structure (4), a compression spring (6), and a push button top cap (3). The push button includes a bottom surface (30) with a pawl structure (31) having a plurality of separate fingers extending downwardly and having individual inward pointing latch tips (311). The interface structure includes an upper installation space (41) and a middle indented retaining ring (42). The latch tips of the pawl structure engage the indented retaining ring of the interface structure, when the interface structure engages the pawl structure of the push button.

Applicant's admitted prior art does not teach an interface structure having at least one pair of independent and opposing elastic upper arms extending from a peripheral contour thereof, each of the upper arms having an outside surface including a retaining jut formed thereon; a push button top cap having a bottom surface and a protrusive hub extending from the bottom surface, the protrusive hub having a receiving opening corresponding to the respective retaining jut; nor does Applicant's admitted prior art teach when the upper arms of the interface structure engages with the protrusive hub, the retaining jut is slidably restricted in the receiving opening to allow the push button cap to slide with respect to the interface structure.

The secondary reference to Shinohara et al. discloses a light emitting type push button switch including a push button (10), a switch unit (2), and a plunger (7) connected between the push button and the switch unit. The switch unit (2) includes a switch cover (41), a micro switch (47), and a dummy switch (51). Shinohara et al. states, at col. 6, lines 57-59:

As shown in FIG. 7, in the dummy switch 51, the operation lever 54 is elastically supported by a coil spring 56 accommodated in the case 55.

Shinohara et al. teach the operation leader or button having a pair of downwardly extending arms with outwardly extending juts (Fig. 7) inserted into the case (55) or interface structure. Shinohara et al. do not teach an interface structure having at least one pair of independent and opposing elastic upper arms extending

from a peripheral contour thereof, each of the upper arms having an outside surface including a retaining jut formed thereon; a push button top cap having a bottom surface and a protrusive hub extending from the bottom surface, the protrusive hub having a receiving opening corresponding to the respective retaining jut; nor does Shinohara et al. teach when the upper arms of the interface structure engages with the protrusive hub, the retaining jut is slidably restricted in the receiving opening to allow the push button top cap to slide with respect to the interface structure.

Even if the teachings of Applicant's admitted prior art and Shinohara et al. were combined, as suggested by the Examiner, the resultant combination does not suggest: 1) an interface structure having at least one pair of independent and opposed elastic upper arms extending from a peripheral contour thereof, each of the upper arms having an outside surface including a retaining jut formed thereon; 2) a push button top cap having a bottom surface and a protrusive hub extending from the bottom surface, the protrusive hub having a receiving opening corresponding to the respective retaining jut; 3) nor does the combination teach when the upper arms of the interface structure engages with the protrusive hub, the retaining jut is slidably restricted in the receiving opening to allow the push button top cap to slide with respect to the interface structure.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary

skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Applicant's admitted prior art, or Shinohara et al. that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Applicant's admitted prior art, nor Shinohara et al. disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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